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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/804,051 | 03/19/2004 | Yong-hyun Kwon | 1572.1221 | 6939 |
| 21171 | 7590 | 12/11/2007 | | |
| STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005 | | | EXAMINER ALEXANDER, REGINALD | |
| | | | ART UNIT 3742 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/804,051

Applicant(s)

KWON ET AL.

Examiner

Reginald L. Alexander

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

Claims 1-16 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,935,224.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they are an obvious variation of the patented claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 5-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over KR 2002-0057012 in view of Hedenberg '009.

There is disclosed in the Korean reference a bread maker, comprising: upper and lower kneading drums 11, 13 holding upper and lower parts of a mixing bag 7; a driver 26, 27 rotating the kneading drums in two directions; a baking tray 15 having a slit defined by the tray being formed of two parts; an oven compartment 10; a controller 70 for the driver; a rotation sensor 30; and a pair of dough-blocking members 17. All of the claimed structural limitations have been met by the prior art reference.

Hedenberg discloses the use of a mixing bag having an upper opening part (between edges 52 and 54) and a lower sealed part. Since the opening and seal extend

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from one side of the bag to the opposite side, they can be considered to be located at the side edges.

It would have been obvious to one skilled in the art to substitute the mixing bag of KR '012 with the mixing bag disclosed in Hedenberg, in order to alleviate the need for a cutting element.

In regards to the number of rotations of the kneading drum and how it is calculated, such is an obvious matter of operational choice. A programmable controller can be programmed to function as desired by a user. It is apparent that the controller of KR '012 functions so as to control the location of the mixing bag and can therefor be programmed to function as claimed.

The claimed structural limitations have been met by the prior art.

Response to Arguments

Applicant's arguments filed 26 October 2007 have been fully considered but they are not persuasive.

In regards to the statement that a distinction is set forth by using the terms "upper" and "lower", such is not structurally definitive. One skilled in the art could define an upper opening part as the part of the bag which is below an opposed opening part of the same bag. Or one could define an upper opening part of a bag as the part of the bag adjacent the baking tray. The use of the terms "upper" and "lower" are relative.

Use of the term "controller" does not define a specific structural limitation. Additionally, just because a function of the controller is recited in the claim, such does not invoke 112 6th paragraph. Therefore, the prior art controller to meet the

requirements of the claim, merely needs to be capable of performing the claimed function. A controller which can be programmed will be capable of performing the claimed function.

In so much as applicant has defined the upper opening part and lower sealed part, it is the opinion of the examiner that the prior art meets the limitations as claimed. There is nothing in the claim which prevent the upper opening part from being initially sealed and then opened by way of a cutting tool or burstable seal, as is the case in the prior art. The upper opening part is not defined as being open. As per the claim, it is only suggested that the upper part be where the bag is opened. Applicant makes no positive distinction in the claims as to what end is the upper end and which is the lower. In reference to the prior art, it is shown that based upon where the upper and lower ends of the bag are defined, the controller does prevent exposure of those ends to the oven compartment during a portion of the kneading process. It should also be noted that in the apparatus claims, the operation of the device is given patentable weight. The claims should define structurally over the prior art, not functionally.

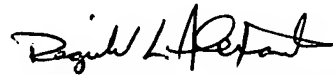
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
29 November 2007


Reginald L. Alexander
Primary Examiner
Art Unit 3742